



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/937,779	07/02/2002	Anders Dahlqvist	0093/000003	7114

26474 7590 02/02/2006

NOVAK DRUCE DELUCA & QUIGG, LLP
1300 EYE STREET NW
SUITE 400 EAST
WASHINGTON, DC 20005

EXAMINER

ROBINSON, HOPE A

ART UNIT	PAPER NUMBER
----------	--------------

1656

DATE MAILED: 02/02/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**UNITED STATES DEPARTMENT OF COMMERCE****U.S. Patent and Trademark Office**

Address: COMMISSIONER FOR PATENTS

P.O. Box 1450

Alexandria, Virginia 22313-1450

APPLICATION NO./ CONTROL NO.	FILING DATE	FIRST NAMED INVENTOR / PATENT IN REEXAMINATION	ATTORNEY DOCKET NO.
---------------------------------	-------------	---	---------------------

EXAMINER

ART UNIT	PAPER
----------	-------

012906

DATE MAILED:

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner for Patents

The Art Unit location of your application in the USPTO has changed. To aid in correlating any papers for this application, all further correspondence regarding this application should be directed to Art Unit 1656.

The communication filed November 14, 2005 is not fully responsive to the Office communication mailed July 13, 2005 because no action was taken in the application to address the issues raised under 35 U.S.C. 112, first paragraph enablement. On pages 12-13 of the response filed a discussion is provided entitled "Rejections under 35 U.S.C. 112". The office action raised issues under 35 U.S.C. 112, first and second paragraphs. The 112, second paragraph issues concerned indefiniteness and issues were raised pertaining language such as "isoenzyme", "at least about" and "homolog/derivative etc.". A brief discussion is provided on page 12 which appears to address some of the issues raised. Applicant also states that the office action lacks support for the genus of nucleotides and provides a discussion on page 13 regarding the description of a representative number of species in the genus. However, no discussion is provided regarding the issues raised under 35 U.S.C. 112, first paragraph enablement which pertains to the amount of undue experimentation required to practice the claimed invention, thus the amendment is non-responsive. It is noted that applicant cancelled the claims previously examined, however, the newly submitted claims have some of the original language, thus, said rejections would still apply.

In addition, on page 12 of the response applicant's provide a second election. Applicant is reminded that an election of an invention was made on April 21, 2005. Newly submitted claims 52-53 and 56-57 are directed to an invention that is independent or distinct from the invention originally claimed and cannot be elected as stated on page 12 of the response. Since applicant has received an action on the merits for the originally presented invention, this invention has been constructively elected by original presentation for prosecution on the merits. Accordingly, claims 52-53 and 56-57 are withdrawn from consideration as being directed to a non-elected invention. See 37 CFR 1.142(b) and MPEP § 821.03. Amendments submitted after final rejections are governed by 37 CFR 1.116."

Since the reply appears to be bona fide attempt to comply applicant is given a TIME PERIOD of ONE (1) MONTH from the mailing date of this communication within which to correct the deficiency in order to avoid abandonment of the application. EXTENSIONS OF THIS TIME PERIOD MAY BE GRANTED UNDER 37 CFR 1.136(a).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Hope A. Robinson whose telephone number is 571-272-0957. The examiner can normally be reached on Monday-Friday from 9:00 a.m. to 6:30 p.m. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kathleen Kerr, can be reached at (571) 272-0931. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system.

Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Hope A. Robinson, MS
Patent Examiner

HOPE ROBINSON
PATENT EXAMINER

1/29/06